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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Billed Party Preference )  
for 0+ InterLATA Calls )

CC Docket No. 92-77

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COMMENTS

Teltrust, Inc., and its subsidiaries Teltrust Communications Services, Inc. and Teltrust Phones, Inc. ("Teltrust")<sup>1</sup>, by their undersigned counsel, hereby submit comments in response to the Commission's request for comment on: (1) the recent rate ceiling proposal by the American Public Communications Council's ("APCC"), Competitive Telecommunications Association ("COMPTTEL"), US WEST, Bell Atlantic, BellSouth Telecommunications, Inc., NYNEX, MFS Communications Company, Inc. and Teleport Communications Group Inc. (the "Coalition Rate Ceiling Proposal"); and (2) the Petition of the National Association of Attorneys General Telecommunications Subcommittee for rules to require additional disclosure by Operator Service Providers of Public Payphones (the "NAAG Petition").

***The Coalition Rate Ceiling Proposal.*** The Coalition has advanced a workable rate ceiling proposal that will end the kind of rate gouging that has given rise to the NAAG Petition, numerous complaints at the Commission, and our industry's poor reputation. In arriving at a fair rate ceiling,

<sup>1</sup> Teltrust, Inc. is a diversified telecommunications company serving the specialized telephone communications needs of clients around the world. Teltrust Communications Services, Inc. is a true integrated service bureau offering operator, switching, network, calling card and other teleservices to the independent payphone industry, IXCs, Competitive Access Providers and other aggregators. Teltrust Phones, Inc. operates approximately 1,600 payphones in five western states.

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the Coalition sought to ensure that the rate ceiling strike a proper balance between the interests of consumers in not being gouged and the critical need for IPP and aggregators to recover their costs of making equipment available for public use. The Coalition Rate Ceiling Proposal also was designed to allow competitors to set rates based on the marketplace so that competition can work effectively; it was not arbitrarily based on the rate levels or cost structure of the dominant carriers. The Coalition attempted to gauge customer perception on rates and devise a rate ceiling which would ensure that all charges would be below those which prompted virtually all of the complaints examined in the sample. Finally, the Coalition also sought to make the rate ceiling simple, so as to allow for easy enforcement and minimal confusion by providers. Accordingly, the Coalition advanced the following rates:

<u>Collect. Calling Card, Third-Party</u>		<u>Person-to-Person</u>
1 Minute	= \$3.75	\$4.75
2 Minutes	= \$4.25	\$5.25
3 Minutes	= \$4.75	\$5.75
4 Minutes	= \$5.25	\$6.25
5 Minutes	= \$5.50	\$6.50
6 Minutes	= \$5.95	\$6.95
7 Minutes	= \$6.20	\$7.20
8 Minutes	= \$6.65	\$7.65
9 Minutes	= \$7.00	\$8.00
(Tenth and Each Additional Minutes = \$0.35/min.)		

The Coalition proposed implementing a monitoring system whereby the LECs would periodically provide the Commission with information concerning calls exceeding the rate ceiling which are submitted to the LECs for billing. The Coalition proposed that the Commission require that LECs who bill on behalf of OSPs supply the agency with a quarterly report showing a summary of the calls reviewed for the report period which exceed the rate ceiling chart. This

summary report would list the OSP, total calls for the period, the number of calls reviewed, the number of calls exceeding the rate ceiling, and the percentage of calls reviewed exceeding the rate ceiling. From this summary report, the Commission could determine if action concerning particular OSPs was necessary. Should the Commission determine that action is necessary, a more detailed call-by-call report for that OSP could be provided by the LEC for those calls exceeding the rate ceiling. The Commission could then determine the appropriate course of enforcement.

*The NAAG Petition.* Citing rate gouging and other unfair and deceptive practices by OSPs, the National Association of Attorneys General and Attorneys General from 23 states asked the Commission to amend 47 CFR Section 64.703(a) and require OSPs, whose rates, connect fees and other charges are not at, or below, dominant carrier rates, provide the following verbal warning:

This may not be your regular telephone company and you may be charged more than your regular telephone company would charge for this call. To find out how to contact your regular telephone company call 1-800-555-1212.

For the reasons stated below, Teltrust wholeheartedly supports the Coalition Rate Ceiling Proposal. BPPs implementation at this time would be contrary to the public interest. The Coalition Rate Ceiling Proposal addresses the final significant issue the Commission sought to remedy through BPP: rate gouging. Teltrust urges the Commission to immediately terminate the BPP proceeding and implement the Coalition Rate Ceiling Proposal. Teltrust urges the Commission to couple implementation of the Coalition Rate Ceiling Proposal with the enforcement program advanced by the Coalition. Teltrust also urges the Commission to begin addressing marketplace inequities which drive

up small OSPs and IPPs costs. Teltrust further believes that implementation of the Coalition Rate Ceiling Proposal will sufficiently address the concerns of the NAAG and the Attorneys Generals. Rate gouging by a few rogue OSPs is the key issue and the rate ceiling proposed by the Coalition will address this problem. Teltrust is adamantly opposed to the NAAG proposal. The verbal disclosure would be costly for OSPs to implement and will add unnecessary network and other costs for each operator assisted call.

**I. THE COALITION RATE CEILING PROPOSAL IS A WORKABLE AND FAR LESS COSTLY ALTERNATIVE TO BILLED PARTY PREFERENCE.**

Teltrust supports the recommendations made in the Coalition Rate Ceiling Proposal. Teltrust has always favored a rate ceiling in lieu of BPP. Teltrust's President was actively involved, through the APCC, in developing the Coalition Rate Ceiling Proposal. Many parties commenting in this proceeding support implementation of some form of regulations of OSP rates; most acknowledge that excessive OSP rates is the most significant issue now driving the implementation of BPP. In the recent round of comments, more than half of the sixteen small OSPs who filed comments supported some form of rate regulation.

Teltrust proposed, in earlier comments, that the Commission establish a fair ceiling on OSP rates and replicate, if possible, the enforcement program currently working in California. We believed then and continue to believe there are significant advantages to a fair rate ceiling like that proposed by the Coalition. First, implementation of the Coalition rate ceiling will force the highest priced OSP to adjust their rates downward, saving consumers money and diminishing the frequency of consumer complaints. Second, implementing the Coalition rate ceiling in place of BPP will enable Teltrust and many other small businesses in our industry to continue to compete in the marketplace. BPP's

implementation, on the other hand, will significantly damage many fine companies in this fast growing industry. Third, adoption of the Coalition rate ceiling will foster competition in the OSP marketplace, provided the Commission remedy the well known market and regulatory inequities which drive up the operating costs of small OSPs and IPPs. Implementing the Coalition rate ceiling will force OSPs to either upgrade and streamline their networks and reign in their operating costs or go out of business. Implementing the Coalition rate ceiling will benefit those OSPs making a good faith attempt to keep their rates fair and reasonable; they will no longer be faced with the uncomfortable choice of keeping rates low or inching rates upward in order to compete with the OSPs who charge obscenely high rates. Finally, the Coalition rate ceiling is largely consistent with the rates benchmark informally established by the Commission itself.

**A. The Coalition Rate Ceiling Proposal is Appropriate in light of the Competitive Environment in Which Small OSPs and IPPs Compete.**

The Coalition Rate Ceiling Proposal is not arbitrarily based upon the rates of the dominant carriers. Rather, it takes into account the competitive environment in which small OSPs and IPPs operate. Teltrust has always feared the Commission would establish a rate ceiling based arbitrarily upon the rates of the dominant carriers. A rate ceiling set at the rates of the dominant carriers would damage small OSPs and IPPs and would unfairly favor the large carriers. As we have noted in previous comments, IPPs and small OSPs like Teltrust face various unfair marketplace and regulatory inequities. For instance, OSPs like Teltrust must now grapple with the advantage AT&T enjoys over small OSPs in competing for IPP and Aggregator contracts because of their proprietary CIID calling cards. Further, small OSPs like Teltrust are financially and structurally very different from the

dominant carriers. Our business is capital intensive; small OSPs cannot rollout multiple products, but must instead narrow their strategic focus on a single market and with a few niche products. The large carriers average capital costs over a very diverse investment, revenue, and product base. Yet, small OSPs must earn a return on the margin of a few products; products aimed at certain narrow niche market segments and designed to enhance consumer services available from public communications equipment.

IPPs similarly face numerous marketplace inequities. IPPs face anticompetitive and increasingly oppressive state regulatory schemes. IPPs are captive to the LECs for Public Access Lines, which are often exorbitantly priced. IPPs must constantly compete with LECs who are able to provide their payphone services through their regulated exchange service, and are, therefore, able to cross subsidize their payphone services from their captive ratepayer base. Further, IPPs are required to provide calls from their equipment for which they are either uncompensated or insufficiently compensated. The Commission must take into account these issues when establishing a fair rate ceiling. The Coalition Rate Ceiling Proposal does consider these issues. The rate ceiling proposed by the Coalition allows OSPs and IPPs to continue to provide their service to the public and earn a just and reasonable return on their investment.

**B. The Coalition Rate Ceiling Proposal is Coupled with an Effective Enforced Mechanism.**

Teltrust has argued that any rate ceiling proposal must be combined with an enforcement program with real teeth. Teltrust suggested in earlier comments that the Commission explore the California rate enforcement approach. Teltrust no longer believes the California approach is workable and supports, instead, the enforcement mechanism advanced in the Coalition Rate Ceiling Proposal.

The California scanning method has been plagued with problems and appears not to be serving the purpose for which it was intended. Indeed, this system has created many headaches; Teltrust has been forced to significant additional resources and peoplepower fixing problems created by this system. The Coalition enforcement proposal is a simpler approach. This system will provide for sufficient monitoring of rates, with minimal administrative burden on Commission staff.

**C. In Addition to Implementing Benchmarks, the Commission Must Help Level the Playing Field for OSPs and IPPs and Their Large Competitors.**

Teltrust maintains implementation of the Coalition Rate Ceiling Proposal will benefit consumers and enhance competition in the OSP marketplace. Nevertheless, Teltrust believes it is critical that the Commission also remedy the market inequities faced by small OSPs and IPPs. We urge the Commission to eliminate anticompetitive regulations which favor dominant carriers. Most importantly, Teltrust hereby requests that the Commission reexamine its policies regarding AT&T's CIID calling card. We urge the Commission to restrict use of AT&T's proprietary CIID calling card to access code calling, or alternatively, to require nondiscriminatory validation of its CIID calling card by all carriers. The Commission has repeatedly acknowledged AT&T's advantages in the OSP marketplace and argued BPP would help eliminate some of these advantages. BPP's implementation is unlikely, considering the voluminous record establishing its high cost and diminishing benefits. AT&T still enjoys significant advantages over competitor OSPs as a result of its large customer base and its wide distribution of proprietary CIID calling cards. AT&T has moved its significant customer base to its CIID calling cards that other OSPs cannot validate. As a result, the disparity between the relative amounts of commissionable traffic that AT&T can handle has grown significantly; IPPs and aggregators, therefore, face growing incentives to presubscribe their phones to AT&T. AT&T can

pay lower commissions while still promising IPPs and aggregators higher total commission income since AT&T is able to complete more commissionable calls than its OSP competitors.

This problem has grown even worse since the last round of comments in this proceeding. AT&T is now aggressively courting the IPP marketplace. AT&T has not aggressively focused on the IPP market; however, they now realize that the IPP marketplace is expanding rapidly and has the potential to be very profitable business. AT&T uses its unfair CIID calling card advantage to win IPP customers and this is having a very damaging impact on competition in the marketplace. As we have noted in previous comment, for Teltrust this advantage has been most painfully felt in California, where Teltrust has been one of the most successful small OSPs serving the IPP market. For three years, Teltrust has increased market share vis a vis AT&T and other small OSPs due to its very fair rates and excellent customer and reporting services. However, since the Commission's decision in Billed Party Preference for 0+ InterLATA Calls, Report and Order and Request for Supplemental Comment, CC Docket No. 92-77, 7 FCC Rcd 7714 (1992) ("Phase I"), AT&T has aggressively exploited their CIID calling card advantage by luring IPP customers with commission on CIID card calls.

Teltrust therefore again urges the Commission to reconsider its Phase I decision and open this phase of the docket for additional comment. We urge the Commission to restrict use of AT&T's CIID calling card to access code calling, or alternatively, require that AT&T provide all other OSPs with nondiscriminatory access to the validation information necessary to complete calls made using CIID calling cards. Like other OSP commenters, Teltrust receives many calls every day from callers using AT&T's CIID calling cards. Because we are unable to validate these calls, Teltrust and other OSPs alienate many callers. AT&T's CIID calling card gives AT&T a tremendous advantage in the



OSP marketplace -- it is now a central component in AT&T's marketing efforts to IPPs and Aggregators. This advantage coupled with AT&T's already dominant market position and name recognition will place small OSPs at an insurmountable disadvantage if the Commission implements the Coalition Rate Ceiling Proposal.

**II. THE ADDITIONAL DISCLOSURE REQUESTED IN THE NAAG PETITION IS UNNECESSARY.**

Teltrust believes the NAAG Petition should be denied. The NAAG proposal will be completely unnecessary if the Commission implements the Coalition Rate Ceiling Proposal and terminates the BPP proceeding. The problem giving rise to the NAAG Petition is rate gouging by a few OSPs and IPPs bent on short-term profit, no matter what the consequences. Implementation of the Coalition Rate Ceiling Proposal will address this problem by lowering rates consumers are charged from payphones. The NAAG Petition will require OSPs to incur additional costs. The verbal warning will add network time and, therefore cost on each operator assisted call. Moreover, implementing this verbal warning may be difficult depending upon an OSP's switches. At the very least, this verbal warning would require costly software changes, which would take time and require expensive re-training of operators. These added costs and upgrades are simply unnecessary and would amount to regulatory overkill.

For the foregoing reasons, Teltrust urges the Commission to immediately terminate the BPP proceeding and implement the Coalition Rate Ceiling Proposal. Teltrust urges the Commission to deny the NAAG Petition. Finally, Teltrust believes the Commission should reconsider the unfair competitive advantage created by AT&T's CIID Calling card and open this phase of the docket for additional comment.

Respectfully submitted,

A handwritten signature in cursive script, reading "Steven Swenson".

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Steven E. Swenson  
Counsel for Teltrust

April 12, 1995